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International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the sixth periodic report of Tunisia*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on measures taken to ensure the effective implementation of the recommendations contained in the Committee's previous concluding observations (CCPR/C/TUN/CO/5). Please provide information and statistical data on the impact of these measures. Please also indicate what procedures are in place to implement the Committee's Views under the Optional Protocol.

2. Please report on any other significant developments in the legal and institutional framework for the promotion and protection of human rights that have taken place since the submission of the State party's common core document (HRI/CORE/TUN/2016).

B. Specific information on the implementation of articles 1 to 27 of the Covenant, including follow-up on the Committee's previous recommendations

Constitutional and legal framework within which the Covenant is implemented (art. 2)

3. With reference to the Committee's previous concluding observations (paras. 3 and 5)[1] and article 20 of the Constitution, please provide information on the measures taken to fully incorporate the provisions of the Covenant into the State party's legal order. Please provide examples, where possible, of cases in which the domestic courts have applied the provisions of the Covenant or used them as an aid to interpret domestic law. Please indicate the steps taken to disseminate information on the Covenant and the first Optional Protocol among the general public and among judges, lawyers, prosecutors and law enforcement officers. Please provide information on the establishment of the Constitutional Court and the appointment of its 12 members.

4. In the light of the previous concluding observations (para. 8) and the information contained in paragraph 76 of the State party's common core document, please provide information on the status of the bill on the Human Rights Commission and the compliance of the bill with the principles relating to the status of national institutions for the promotion

* Adopted by the Committee at its one hundred and twenty-second session (12 March–6 April 2018).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

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and protection of human rights (Paris Principles). Please provide information on the measures taken and envisaged to ensure the independence of the institution in practice, including with respect to the selection of candidates. Please provide information on the human and financial resources allocated to the High Committee on Human Rights and Fundamental Freedoms to enable it to fulfil its mandate effectively.

Transitional justice (arts. 3, 6, 7, 9, 14 and 26)

5. Please provide information on the progress made by the Truth and Dignity Commission since 2016. Please provide information on the support given to its work and the measures taken to guarantee, in practice, the independence of this body and its executive committee. Please comment on the fact that, in March 2018, Parliament decided not to renew its mandate. Please provide information on the status of the work carried out by the specialized chambers established under Organic Act No. 2013-53 of 24 December 2013 on the establishment and regulation of transitional justice.

Combating corruption (arts. 14, 25 and 26)

6. Please provide information on concrete measures taken since 2015 in the fight against corruption, including information on investigations, prosecutions and their outcomes and steps taken by the national commission on the fight against corruption during this period. Please also provide information on the measures taken to ensure the independence of this institution and the budgetary and human resources allocated to it in order to ensure its effectiveness. Please comment on Organic Act No. 2017-62 of 24 October 2017 on reconciliation in the administrative sphere and explain the extent to which it conforms to the transitional justice system.

Non-discrimination and equality between men and women (arts. 2, 3, 20 and 26)

7. Please provide information on the legal framework governing the fight against discrimination and indicate the measures taken or envisaged to bring this framework into conformity with the requirements of articles 2 and 26 of the Covenant, including measures to prohibit direct and indirect discrimination in the private and public sectors. Please provide information on the status of the bill on the fight against racial discrimination, specifying any provisions relating to the definition of racial discrimination and indicating the scope of the bill. Please provide information on measures taken to combat racial discrimination in practice, including against the black population, in all areas, including access to housing and employment. Please state whether, in accordance with article 48 of the new Constitution, disability-based discrimination is explicitly prohibited under an anti-discrimination law and whether such discrimination is prohibited in all relevant laws, including those governing elections, employment, education and health. Please state whether crimes motivated by racial hatred and other grounds of discrimination are criminalized. Please indicate whether racial motives are considered an aggravating circumstance under domestic criminal legislation. Please provide statistical data on the implementation of: (a) article 52 of Decree-Law No. 2011-115 of 2 November 2011, on freedom of the press, printing and publishing, criminalizing incitement to racial hatred; and (b) article 14 of Organic Act No. 2015-26 of 7 August 2015 on the fight against terrorism and the suppression of money-laundering, criminalizing the incitement of hatred and animosity among races, as well as the glorification of such acts; please also explain why these acts are characterized as terrorist offences.

8. In the light of the Committee's previous concluding observations (para. 14), please indicate whether, in order to bring its legislation into conformity with the Covenant, the State party is intending to repeal those provisions of the Criminal Code that criminalize sexual relations between consenting adults of the same sex. Please provide data on the application of articles 226 (criminalizing public indecency) and 230 (criminalizing same-sex relations between consenting adults) of the Criminal Code to non-heterosexual and non-cisgender persons. Please indicate whether the State party has ended the practice of subjecting persons accused under these articles to forced anal examinations. Please provide statistical data on the number of arrests and detentions ordered under these articles of the Criminal Code since 2006. Please also provide statistics on the number of allegations of

harassment, assault and ill-treatment of persons because of their actual or perceived sexual orientation or gender identity, and on the inquiries conducted and proceedings initiated, including their outcomes. Please provide information on the efforts undertaken by the State party to combat discrimination and social stigmatization aimed at non-heterosexual and non-cisgender persons and indicate whether the State party plans to amend domestic legislation to prohibit discrimination on these grounds and criminalize all forms of incitement to hatred and violence against such persons.

9. Please explain the provisions of the personal status laws that designate the man as the head of the household, prevent Tunisian daughters from obtaining the same share of inheritance as their brothers and, in some cases, other male relatives, and allow judges to prevent mothers from having custody of their children if they have remarried when the same restriction are not applied to fathers. Please also indicate whether the State party intends to change these provisions. Please indicate how many requests for marriages involving minors have been submitted and approved. Please provide information on measures taken to prevent and eliminate the practice of early marriage. Please comment on the judgment issued by the court of first instance of El Kef in December 2016, authorizing marriage between a girl of 13 years of age and a family member who had made her pregnant. Describe the current impact of the prohibited customary marriage practice known as *orfi* and, if applicable, explain its consequences for women's ability to enjoy their Covenant rights.

10. With regard to Act No. 65-24 of 1 July 1965 and Decree-Law No. 73-2 of 26 September 1973, permitting abortion in certain circumstances, please indicate what measures have been taken to ensure that women and girls, including those who are unmarried, can obtain access to abortion in a manner that respects their right to privacy. Please also specify the measures taken and envisaged to combat the stigmatization of women and girls who resort to abortion. Please also provide statistics on illegal abortion and its effect on women's lives and health.

Violence against women (arts. 2, 3, 6, 7 and 26)

11. In the light of the Committee's previous concluding observations (para. 10), please provide information on measures taken to eliminate violence against women, including within the family, and on the results achieved. Please indicate whether marital rape and domestic violence are defined as separate criminal offences in the State party. Please provide annual data since 2011 on: (a) the number of complaints filed that concern different forms of violence against women, including domestic violence and sexual violence; (b) the investigations into and prosecutions of those complaints; (c) the convictions handed down; (d) the number of protection measures granted, if any; and (e) the compensation awarded to victims. Please also provide information on activities intended to raise awareness of the harmful effects of violence against women and on capacity-building programmes for law enforcement officers. Please provide detailed information on the financial resources allocated to the programmes and policies set out in Organic Act No. 2017-58 of 11 August 2017 on the elimination of violence against women. Please provide detailed information on the concrete results of the national strategy to combat violence against women at different stages of their lives, which was adopted in 2008.

Counter-terrorism measures (arts. 2, 7, 9, 10, 12 and 14)

12. In the light of the previous concluding observations (para. 15), please provide information on the measures taken to ensure that the state of emergency in force since 2015, and Act No. 2015-26 of 7 August 2015 on terrorism and money-laundering, are in conformity with the obligations imposed by the Covenant on the State party and that they safeguard the human rights of suspects, detainees and their families. Please provide information on the guarantees of due process granted by the special courts set up to deal with terrorism cases. Please comment on the compatibility with the Covenant of those provisions of Act No. 2015-26 and Act No. 2016-5 that allow: (a) detainees suspected of terrorism to be denied access to a lawyer during the first 48 hours of detention; and (b) the duration of police custody to be extended to up to 15 days in certain circumstances. Please indicate what measures have been taken to: (a) provide a precise definition of what

constitutes a terrorist attack; and (b) ensure that the imposition of house arrest, restrictions on the freedom of movement and search warrants are subject to judicial oversight. Please provide detailed information on the number of investigations carried out, detentions imposed (including their duration), prosecutions undertaken and acquittals and convictions handed down under each counter-terrorism law in the past five years.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 2, 6 and 7)

13. In the light of the previous concluding observations (para. 14), please explain the reasons for the extension of the grounds for the imposition of capital punishment under Organic Act No. 2015-26 of 7 August 2015, which provides for the death penalty for certain crimes related to terrorism. Please indicate whether the moratorium on capital punishment remains in force. Please provide information on the number of death sentences handed down by the State party's courts over the reporting period, the grounds for each of the sentences, the age of each of the persons sentenced to death at the time of the crime, the number of persons sentenced to death who were pardoned or had their sentence commuted, and the number of persons currently held on death row. In the light of the offences set out in Act No. 2015-26 of 7 August 2015, please provide an exhaustive list of the offences that are punishable by the death penalty and indicate whether that punishment is mandatory for all those offences and what possibilities exist for obtaining a pardon. Please indicate whether the State party intends to ratify the second Optional Protocol to the Covenant.

14. Please explain the measures taken to bring the definition of torture set out in article 101 bis of the Criminal Code into line with article 7 of the Covenant and international standards, bearing in mind that the article in question excludes acts committed with the aim of administering punishment, restricts discrimination to racial discrimination, and restricts the definition of torturer by excluding persons acting under orders or at the instigation of, or with the consent or acquiescence of, a public official or similar. In the light of the previous concluding observations (para. 12), please provide detailed information on the measures taken to prohibit, prevent, prosecute, condemn and penalize the use of confessions obtained under torture in any court and to ensure that the burden of proof in such cases does not rest on the victims. Please provide statistics on the number and outcomes of complaints of acts of torture and the number of investigations and prosecutions. Also indicate the measures taken to ensure, in practice, the protection of all persons from torture, including in the context of the fight against terrorism. Please specify the proportion of law enforcement officials who receive comprehensive and regular training in the investigation of cases of torture and ill-treatment and state whether the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) is incorporated in all training programmes.

15. In the light of the previous concluding observations (para. 11), please indicate the number of complaints of ill-treatment committed by law enforcement officials or prison staff that were received during the reporting period and provide information on the investigations, prosecutions, convictions and sanctions imposed, including disciplinary measures, and the reparation granted to victims. Please provide statistical data, disaggregated by sex, age and ethnic affiliation, on deaths resulting from the use of force by police and security forces, the number of deaths in police custody during the reporting period, and the investigations conducted, prosecutions initiated, convictions secured, punishments handed down to offenders and reparation granted to victims.

16. Please indicate the status of bill No. 25/2015 on the prevention of attacks against the armed forces. Please explain the circumstances in which the security forces are authorized to use lethal force and may be exempted from criminal responsibility. Please provide information on the legal standards governing the legitimate use of force and firearms by law enforcement officers in the State party and the source of those standards in national law. Please indicate the status of the draft code of conduct for the internal security forces, explaining how its provisions comply with article 7 of the Covenant.

Prohibition of slavery, trafficking and servitude and the rights of children (arts. 8 and 24)

17. Please provide information on the concrete efforts made to implement Organic Law No. 2016-61 of 3 August 2016 on preventing and combating trafficking in persons. Please provide information on the implementation of the project "Together Against Child Labour in Tunisia", launched in April 2017, and on the resources allocated to it. Please describe the measures taken to: (a) identify and eliminate child labour in sectors such as agriculture and the servitude of children in sectors such as domestic work; (b) combat the cross-border trafficking of children, women and men for the purpose of forced labour; and (c) adopt legislative measures prohibiting the forced labour and forced prostitution of adults.

18. Please provide statistical data for the past five years, disaggregated by sex, age group and the victims' country of origin, on: (a) the scope of slavery, trafficking, forced labour and servitude, including of children for the purposes of sexual or economic exploitation; (b) the number of reported cases; (c) the number of investigations and prosecutions initiated; (d) the convictions and sentences handed down; and (e) the availability of support services for victims, including legal assistance and reintegration services, as well as the occupancy rate of shelters. In addition, please provide information on the training provided to judges, prosecutors, police officers and other State officials to enable them to detect victims of trafficking, forced labour and servitude and carry out investigations and initiate legal proceedings. Please describe the campaigns conducted to raise awareness of these issues and the results achieved.

Liberty and security of the person, lawful detention and the treatment of persons deprived of their liberty (arts. 2, 7, 9, 10 and 11)

19. In the light of the previous concluding observations (para. 13), please provide information on efforts to implement the provisions of Act No. 2016-5 of 16 February 2016 on the duration of police custody and access to a lawyer. Please specify the point at which custody begins and the measures that enable persons deprived of their liberty to challenge the legality of their detention. Please describe the measures taken to ensure that pretrial detention is used only in exceptional cases and to promote the use of alternatives to detention. Please also indicate the legislative measures taken to explicitly incorporate the absolute prohibition of enforced disappearance into domestic law and to establish enforced disappearance as a separate offence.

20. Please provide statistics, disaggregated by sex, age group and national origin, on the number of persons in detention, including those held on remand, and the total capacity of places of detention. Please also provide information on measures taken or envisaged to ensure the effective separation of accused persons from convicted prisoners, and juveniles from adults, in places of detention, including police and gendarmerie stations. Please also provide information on the number of deaths in custody, the investigations conducted in that regard, the outcome of those investigations and the measures taken to significantly reduce the number of such deaths.

21. In the light of the Committee's previous concluding observations (para. 16), please indicate the measures taken to improve the conditions and treatment of prisoners in places of detention, in line with the Standard Minimum Rules for the Treatment of Prisoners, including those measures intended to eliminate prison overcrowding, improve the quality of food and sanitation conditions and facilitate access to health care and family visits. Please provide information on the measures taken to establish effective and confidential mechanisms that enable prisoners to report violations that they have suffered, including violations relating to their conditions of detention, and specify the results obtained by such measures. Please indicate what measures have been taken to establish prison inspection committees and describe how they operate and the resources available to ensure that they can effectively fulfil their mandate.

Independence and impartiality of the judiciary (art. 14)

22. In the light of the previous concluding observations (para. 17), please provide information on the work of the temporary body established to oversee the judicial system

and the results that it obtained between 2013 and 2016. Please indicate the resources allocated to the High Council of the Judiciary. Please indicate whether it has started work and describe its activities. Specify any other measures taken to ensure the effectiveness and independence of the judiciary, including the Provisional Commission to Review the Constitutionality of Laws, making reference to measures taken to guarantee, in law and in practice, the full independence and impartiality of judges in relation to the executive branch. Please indicate what measures have been taken to prevent and punish any threats or intimidation aimed at lawyers or judges, any interference in their work and any arbitrary disciplinary measures taken against them. Please describe the procedures and criteria used in appointing judges and subjecting them to disciplinary measures, such as suspension or dismissal.

23. Please indicate the measures taken to ensure that everyone has effective access to a court at which all the guarantees of a fair trial are upheld, including the right to be assisted by a lawyer or counsel during the various stages of judicial proceedings. Describe the measures taken to ensure that, in criminal proceedings, and in other situations where the interests of justice so require, free legal aid is made available, without undue delay, to all persons who cannot afford to pay for it.

24. Please provide information on the nature of the offences for which civilians have been tried before military courts and provide information on measures taken or envisaged, including the amendment of laws, to eliminate this practice. Please also indicate the measures taken to ensure that military personnel who have committed offences against civilians are not tried in such courts. Please describe the results obtained by the technical commission whose purpose is to bring these courts into conformity with international standards.

Right to privacy (art. 17)

25. Please describe the measures taken to ensure that, in law and in practice, any interference with the right to privacy, including by the Technical Telecommunications Agency and other bodies working in the area of surveillance and counter-terrorism, is in accordance with the principles of legality, proportionality and necessity. Also specify the measures taken to establish independent oversight mechanisms aimed at preventing abuse. Please specify the measures taken to ensure that the draft law on the establishment of biometric identity cards containing electronic chips, and the bill on the new digital code, are in conformity with the obligations imposed under article 17 of the Covenant.

Freedom of expression (art. 19)

26. In the light of the Committee's previous concluding observations (para. 18), please provide information on the status of the amendment of Decree-Law No. 2011-115 of 2 November 2011 on freedom of the press, printing and publishing. Please specify how this instrument, and other laws regulating freedom of expression, comply with article 19 of the Covenant, in particular with regard to restrictions on the media. Specify the legislative provisions relating to censorship of the media. Please also specify the laws that provide for imprisonment for misleading or offensive language (insults aimed at civil servants, defamation, criticism of the army, etc.). Please provide statistical data and information on the implementation of these laws.

27. In the light of the previous concluding observations (para. 20), please specify the measures taken to put an end to acts of intimidation and harassment and to ensure respect for, and the protection of, peaceful activities carried out by human rights organizations and defenders. Please provide information on the number of journalists who have been fined or sentenced to prison terms, the media outlets whose operations have been suspended by a decision of the authorities and instances in which journalists have been summoned or questioned by the authorities. Please provide information on investigations, prosecutions, convictions and penalties imposed on the perpetrators of harassment, threats or arbitrary arrests of journalists or human rights defenders and the redress provided to victims.

Freedom of association and assembly (arts. 21 and 22)

28. In the light of the Committee's previous concluding observations (para. 21), please provide information on the number of independent associations officially registered by the authorities and the measures taken to ensure that human rights organizations do not face practical obstacles in obtaining such registration. Please state the number of cases in which registration has been denied and specify the reasons why. Please provide information on the measures taken to guarantee, in practice, that the right to freedom of assembly and peaceful demonstration is upheld in the State party and ensure that any restrictions in that regard are in accordance with the provisions of the Covenant. Please comment on allegations that demonstrations held in January 2018 to call for the withdrawal of the Finance Act were violently put down by the police.

Treatment of refugees, asylum seekers and displaced persons (arts. 6, 7, 12, 13, 14, 24 and 26)

29. In the light of article 26 of the Constitution, please provide information on the status of the bill on asylum, indicating the protection that it affords refugees and asylum seekers. Please indicate whether the State party intends to decriminalize irregular entry into the State party. Specify the number of irregular migrants currently held in detention and the laws governing their detention and indicate whether they are obliged to bear the cost of their removal. Describe the mechanisms aimed at identifying and helping vulnerable migrants at borders and guaranteeing that they benefit from essential services, effective protection, long-term solutions, respect for the principle of non-refoulement, the prevention of statelessness, and access to fair and effective asylum procedures. Please provide statistical data, disaggregated by nationality, on the number of asylum requests that have been registered and granted and the number of appeals and their outcome.

Participation in public affairs (art. 25)

30. In the light of the previous concluding observations (para. 19), please comment on the extent to which Organic Act No. 2014-16 of 26 May 2014 and Organic Act No. 2017-7 of 14 February 2017 are compatible with articles 19 and 25 of the Covenant. Please specify the crimes for which additional penalties are imposed, within the meaning of article 5 of the Criminal Code, with the result that convicted persons are deprived of the right to register as voters, in accordance with article 6 of Organic Act No. 2017-7. Please provide information on the efforts being made, including by the Independent High Electoral Commission, to ensure that the next elections are properly conducted and specify the legislative provisions governing the establishment of the electoral calendar. Please also specify the measures taken to ensure the effective and independent functioning of this body.

31. Please indicate whether, in its current state, the bill on municipal elections provides for horizontal and vertical parity. Please provide information on the representation of women in the National Assembly, the Government, local government, and decision-making positions in the civil service and the private sector. Please also provide information on the measures taken to increase the participation of women.